

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA**

In Re:

Bky. No. 04-50966

RUTH ANN KYROLA,

Debtor.

**NOTICE OF MOTION AND MOTION OBJECTING
TO PROPERTY CLAIMED AS EXEMPT**

TO: THE COURT, THE DEBTOR, THE DEBTOR'S ATTORNEY, AND THE UNITED STATES TRUSTEE

1. Robert R Kanuit, Trustee of the bankruptcy estate of the above-named debtor moves the Court for the relief requested below and gives notice of hearing.

2. The Court will hold a hearing on this motion at 10:30 a.m., on November 29, 2004, before the Honorable Robert J. Kressel, in Courtroom 2 at the United States Courthouse, 515 West First Street, in Duluth, Minnesota.

3. Any response to this motion must be filed and delivered not later than November 22, 2004, which is seven (7) days before the time set for the hearing, or filed and served by mail not later than November 19, 2004 which is ten (10) days before the time set for the hearing. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

4. This Court has jurisdiction over this motion pursuant to 28 U.S.C. §§ 157 and 1334, 11 U.S.C. § 522, 11 U.S.C. § 542, Bankruptcy Rules 4003d, 9013 and 9014, and Local Rules 702 and 1201, et seq. This proceeding is a core proceeding. The petition commencing this Chapter 7

case was filed on August 27, 2004. The case is now pending in this Court. Movant is entitled to object to Debtor's claims of exemption pursuant to Bankruptcy Rule 4003.

5. This motion arises under 11 U.S.C. § 522, 11 U.S.C. § 542, and Bankruptcy Rule 4003 and Local Rule 702. This motion is filed under Bankruptcy Rule 9014 and Local Rules 9001-1 to 9006-1 and 9013-1 to 9013-5. Movant requests relief with respect to Debtor's nonexempt property.

6. Debtor has claimed as exempt a homestead on leased property under Minn. Stat. §§510.01 and 510.02; a savings account under 10 U.S.C. §1035; and accrued wages under Minn. Stat. §§571.922 and 550.37, subd. 13, to which movant objects.

7. Movant objects to debtor's claims of exemption for the following reasons:

- (a) With regard to the homestead, trustee has requested permission from the debtor's counsel to have an appraiser view the property; but to date, debtor's counsel has not responded to my request. Accordingly, I am not able to determine whether the claimed value of this homestead is accurate.
- (b) With regard to the savings account, debtor is not a member of the U.S. Armed Services and the account in question is not deposited with the U.S. Armed Services as required under 10 U.S.C. §1035.
- (c) With regard to the accrued wages, debtor's entire accrued wages for the period are not exempt under either of the cited statutes.

WHEREFORE, trustee, Robert R. Kanuit, moves the Court for an order sustaining his objection to debtor's exemptions and such other relief as may be just and equitable.

Dated this 22nd day of October, 2004.

/e/ Robert R. Kanuit
Robert R. Kanuit (#0252530)
Chapter 7 Trustee
4815 W. Arrowhead Road, #230
Hermantown, MN 55811
(218) 722-7722

VERIFICATION

I, Robert R. Kanuit, movant, declare under penalty of perjury that the foregoing is true and correct according to the best of my knowledge, information and belief.

Dated this 22nd day of October, 2004.

/e/ Robert R. Kanuit
Robert R. Kanuit

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UNSWORN DECLARATION FOR PROOF OF SERVICE

The undersigned, being an employee of Kanuit & Bray, Ltd., attorneys licensed to practice law in this Court, with office address of 4815 W. Arrowhead Road, Hermantown, MN 55811, declares under penalty of perjury that on the date stated below, she served the annexed **Motion Objecting to Property Claimed as Exempt and (proposed) Order** upon the persons named below by mailing to them a copy thereof by enclosing same in an envelope with first class mail postage prepaid and depositing same in the post office at Hermantown, Minnesota, addressed as follows:

Ruth Ann Kyrola
4575 Eagles Nest Drive North
Makinen, MN 55763-8040

Mark Groettum
Groettum Law Office
PO Box 764
Hibbing, MN 55746

U.S. Department of Justice
Office of the United States Trustee
U.S. Courthouse, Suite 1015
300 South Fourth Street
Minneapolis, MN 55415

Dated this 22nd day of October, 2004.

/e/ Bonnie K. Vanderpool
Bonnie K. Vanderpool

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ORDER

At Duluth, Minnesota, on November 29, 2004.

Upon the objection to property claimed as exempt filed by the trustee and upon all the files and records of the proceedings herein,

IT IS ORDERED:

The trustee's objections are sustained and the homestead, savings account, and accrued wages are not exempt.

Robert J. Kressel
United States Bankruptcy Judge